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DOL AUDIT REVIEW

March 21, 2001

DOL

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Mountaire

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Audit Period

May 1998 – May 2000

Hap Perry said they will not give us anything in writing. We can request audit results through FOIA, but they will deny it.

1. FMLA – OK
2. Child Labor – OK
3. Minimum Wage – DOL claims we are “training” new catchers on the job, but not paying them (2 workers, 3 days each). Catchers. We could find no evidence of this.
4. O.T. – Catchers should be paid O.T. Drivers and forklift not. House-to-house travel is compensable for hours worked. Crew leaders should also be paid OT because they are not salary. We can solve this by making salary. If crew leaders provide transportation due to MSWDA need:
 - Drivers License
 - Physical (and carry w/driver)
 - Vehicle Inspection
 - Ins. Req. (\$100,000 per seat)
 - MSWPA – disclose conditions of employment at time of offer – posting requirement (in van).
 - Pay stub should have name and employer federal I.D.
5. FLSA – 1) PPE if people buy products and that causes their wages to fall below minimum wage, that is a violation.
 - If you charge over the actual cost, if the profit is a violation.
6. Maint. Bonus – needs to be included in straight time pay in order to calculate OT.

PLAINTIFF'S
EXHIBIT

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7. FLSA – exempt/non exempt. (DOL considers the following positions non-exempt):
 1. NS. Nurse
 2. Office Mgr – Trans (Pat Beasley)
 3. Trainers (3)
 4. Safety Coordinator
 5. Administrative Assistant (3), Robin P., Rafael V, Karen W.
 6. Benefits Manager – Maria Voss
 7. N.S. H.R. Mgr – Conchita Raga
8. Pre Shift Preparatory Activities
 1. Donning, waiting in line.
 2. Maint. Men – finding out from previous shift what happened during that shift.
9. Breaks
 1. 30 min break – washing, doffing, break time, donning = < 30 min.
10. Post Shift Concluding Activities
 1. Wash, remove PPE
11. Record Keeping
 1. Inaccurate hours worked line employees and catchers.
12. In exchange not to sue us, DOL wants:
 1. Assurance of future compliance (corporate wide).
 2. What specific steps will we take to assure compliance?
 - * If we achieve compliance with 1 & 2, then we will discuss how much back pay.

Back pay discussion (donning, doffing & 30 min \pm lunch) = one hour per day,
 \therefore 5 hours/week.

 - ** Check the 401k eligibility for “live haul contractors” that DOL now says are employees.

Fox vs Tyson case (North Alabama?)

“Hot Goods”

DOL says that Pension Plan Group is looking at this issue (employees- Live Haul)